

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

EDEN ROGERS, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 6:19-cv-1567 (TMC)

FEDERAL DEFENDANTS' MOTION FOR PROTECTIVE ORDER

Defendants United States Department of Health and Human Services (“HHS”); Administration for Children and Families (“ACF”); Alex Azar, II, in his official capacity as Secretary of HHS; Lynn Johnson, in her official capacity as Assistant Secretary for ACF; and Scott Lekan, in his official capacity as Principal Deputy Assistant Secretary of ACF (collectively the “Federal Defendants”), file this Motion for Protective Order under Federal Rule of Civil Procedure 26(c).

For the reasons set forth in the attached Memorandum, the Federal Defendants respectfully request that the Court enter a protective order prohibiting Plaintiffs from seeking discovery from the Federal Defendants in this case beyond the limitations of the Administrative Procedure Act (“APA”), including a requirement that discovery may only be served with leave of Court obtained under APA standards after the Federal Defendants produce the administrative record. In the alternative, the Federal Defendants request that the Court enter a protective order as to Request for Production Nos. 5, 6, and 11–15—*see* Ex. A at 10, 12, 13—as well as any other discovery requests now pending or that may be served seeking information related to any federal program or state

other than the South Carolina foster care system funded under Title IV-E of the Social Security Act.

Dated: July 10, 2020

Respectfully submitted,

ETHAN P. DAVIS
Acting Assistant Attorney General

PETER M. McCOY, JR.
United States Attorney

/s/ Christie V. Newman
CHRISTIE V. NEWMAN (#5473)
Assistant United States Attorney
1441 Main Street, Suite 500
Columbia, SC 29201
Telephone: (803) 929-3021
Email: Christie.Newman@usdoj.gov

MICHELLE BENNETT
Assistant Branch Director

CHRISTOPHER A. BATES
Senior Counsel to the Assistant Attorney General

JAMES R. POWERS (TX Bar No. 24092989)*
Trial Attorney
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, NW
Washington, DC 20005
Telephone: (202) 353-0543
Email: james.r.powers@usdoj.gov

*Admitted *pro hac vice*

Counsel for Federal Defendants